

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

SYNCPPOINT IMAGING, LLC,

Plaintiff,

vs.

NINTENDO OF AMERICA INC., et al.,

Defendants.

No. 2:15-cv-00247-JRG-RSP

[Jury Trial Demanded]

Nintendo's Unopposed Motion for Leave to Exceed Page
Limitation on Motion for Exceptional Case Attorney Fees
Under 35 U.S.C. § 285

Pursuant to Local Rule CV-7(k), Nintendo respectfully requests leave to file a Motion for Exceptional Case Attorney Fees Under 35 U.S.C. § 285 that exceeds Local Rule CV-7(a)(2)'s page limit for Non-dispositive Motions by fifteen pages, for a total length of thirty pages. Plaintiff SyncPoint Imaging, LLC and Defendant PixArt Imaging Inc. do not oppose this Motion for Leave.¹

The Motion for Leave should be granted for the following reasons. First, the circumstances justifying imposition of exceptional case fees here are not only numerous, but complex. Given that Nintendo has not had the opportunity to raise much of this conduct with the Court previously, Nintendo's motion must set forth, for the first time, a sufficiently complete background to provide the Court with sufficient context to allow the Court to determine the issue of exceptional case fees. For example, Nintendo's motion sets forth Mr. Hansen and his attorneys' ("the Pia Firm") conduct in fabricating a key piece of evidence concerning the issue of legal standing—a patent assignment—and the several months long attempt to sweep that litigation misconduct under the rug, including the frivolous assertion of work-product protection on the false evidence (recently abandoned). These complex facts justify additional pages.

Second, Nintendo's motion not only seeks to impose exceptional case fees against Plaintiff SyncPoint, but also against SyncPoint's alter ego, Karl Hansen, and the Pia Firm. The facts demonstrating why it is appropriate to join Mr. Hansen and the Pia Firm—for instance, that Mr. Hansen and the Pia Firm are responsible for the circumstances that make this case exceptional—are many and complex, and thus also necessitate additional pages to provide the Court with a complete picture.

¹ Nintendo likewise does not oppose SyncPoint, Mr. Hansen, and the Pia Firm filing, collectively, a thirty page response brief.

Third and finally, Nintendo does not seek anything more than the number of pages for a dispositive motion. Although a motion for exceptional case fees is considered non-dispositive under the local rules, Nintendo's motion raises circumstances and issues that are more complex than many dispositive motions to dismiss or for judgment on the pleadings, which are entitled to thirty pages per Local Rule CV-7(a)(1).

For the foregoing reasons, Nintendo respectfully request that the Court grant this Motion for Leave to Exceed Page Limitations.

Respectfully submitted,

Dated: February 23, 2018

By: /s/ Grant Kinsel
Grant Kinsel

Grant Kinsel (lead attorney)
CA Bar No. 172407
Email: gkinsel@perkinscoie.com
Kyle M. Amborn
Wash. St. Bar No. 48340
Email: kamborn@perkinscoie.com
Kevin A. Zeck
Wash. St. Bar No. 41689
Email: kzeck@perkinscoie.com
Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101
Tel: 206.359.3002
Fax: 206.359.4002

Ryan B. Hawkins
Ca Bar No. 256146
Email: rhawkins@perkinscoie.com
Perkins Coie LLP
11988 El Camino Real, Suite 350
San Diego, CA 92130
Tel: 858.720-5700
Fax: 858.720-5799

Clyde M. Siebman
SIEBMAN, BURG, PHILIPS &
SMITH, L.L.P.
Federal Courthouse Square
300 N. Travis Street
Sherman, TX 75090
Tel: 903.870.0070
Fax: 903.870-0066
email: Siebman@siebman.com

Attorneys for NINTENDO CO., LTD.
and NINTENDO OF AMERICA INC.

CERTIFICATE OF SERVICE

I certify that all counsel of record who are deemed to have consented to electronic service are being served this February 23, 2018 with a copy of this document via the Court's CM/ECF system pursuant to Local Rule CV-5(a)(3). Any other counsel of record will be served by facsimile transmission and/or first class mail.

/s/ Grant Kinsel

Grant Kinsel